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Effective Regulation of the Boxing Industry: A Cooperative Effort

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As Chief Deputy Attorney General for the State of Nevada, I had the privilege of being Chief Legal Counsel to the Nevada Athletic Commission from May 1998 to May 2001. Those 3 years proved to be one of the busiest times for boxing in Nevada's history. During 2000 alone, the Nevada Athletic Commission approved and supervised 64 boxing events, containing 387 separate boxing matches. While California leads the nation in total number of boxing events each year, Nevada remains the "Boxing Capitol of the World." Thousands of fans come to Nevada each year to watch boxing, and hundreds of thousands more watch the spectacle that is boxing on their television sets around the world.

Whenever boxing fans gather, someone inevitably asks whether the sport can ever be

controlled. Well, I am proud to tell you that in my humble opinion, I believe the sport can be effectively regulated. Indeed, the success that Nevada has achieved would not have occurred without tight regulatory controls, or without good faith cooperation from its licensees.

As a member of the National Association of Attorneys General Boxing Task Force, I had the opportunity to work with legal counsel from 17 other boxing jurisdictions to try and improve the sport. Also through the Task Force, I witnessed people in every facet of this industry eagerly volunteering their time to make this sport better.¹ And indeed, boxing has gotten better over the last few years. Milestones, such as the *Professional Boxing Safety Act* and the *Muhammad Ali Boxing Reform Act*, have shined a spotlight into many of the darker corners of this sport. Unfortunately, there remain so many areas in this sport that could be improved, I could not possibly cover them all within the allotted time. Consequently, I want to speak briefly about a few things that Nevada has done in the last year to protect boxers, and then offer a few suggestions for further improvements.

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Medical Protection:

First of all, let me say that the *Professional Boxing Safety Act* (15 USC §§ 6301 et seq.) has assisted the states' demands that promoters must always protect the health and safety of the fighters. I know that Dr. Edwin "Flip" Homansky, who is not only a current Nevada commissioner but is respected around the world as a leading ringside physician, is one of your witnesses today, so I will

¹ The National Association of Attorneys General Boxing Task Force culminated its work by releasing an extensive report in May 2000. A copy of the report can be viewed online at http://www.oag.state.ny.us/press/reports/boxing_task_force/table_of_contents.html.

defer to him on the medical issues in the sport. However, I wanted to point out 2 areas where I think Nevada has clarified potential ambiguities in the federal law. I highlight these areas not so much for substance, but rather to illustrate how the states can implement, and hopefully improve upon, national legislation.

In specific, 15 USC §6304(2) requires that an “ambulance or medical personnel with appropriate resuscitation equipment” be continuously at the event. The Nevada Athletic Commission recently had an opportunity to review a similar provision in its regulations; and to prevent any uncertainty, the commission mandated that the ambulance be “available to transport” an injured boxer to a medical facility. *See* Nev. Admin. Code 467.414(1). While common sense would seem to dictate that the on-site ambulance would be prepared to transport (*i.e.* ambulate) a boxer, it’s surprising how many promoters would prefer to simply call “911” if a transporting ambulance is required. While that arrangement might be more cost effective for the promoter, those initial minutes waiting for an ambulance to arrive could be the most crucial in a fighter’s ultimate recovery.

The other area in 15 USC § 6304 that should be mentioned is section (4). That provision compels a promoter to provide “health insurance for each boxer.” Nevada has had a similar statute for years, but recently had to pass a regulation clarifying that the promoter must provide “primary insurance coverage” for all boxers. *See* Nev. Admin. Code 467.149(1) (emphasis added). Again, this point seems to need no clarification, but some promoters are far too quick to try and save a dollar at the fighters’ expense.

Financial Protection:

Many state commissions have become much more involved in the financial aspects of this professional sport. The commissions realize that they must protect the well-being of the athletes both inside and outside the ring. Likewise, fighters now realize that they must protect themselves at all times in the ring, and they must protect their *wallets* at all times outside the ring.

It wasn't that long ago when fighters were getting "physically beaten" inside the ring and "fiscally beaten" outside the ring. The stories are legendary about professional boxers who made thousands (even millions) of dollars during their careers and then lost it all. One of the greatest fighters of all time, Joe Louis, would have wound-up penniless if it wasn't for the assistance of a few good fans.

As counsel to the Nevada Athletic Commission, rarely did a week go by without me, or my Senior Deputy Keith Kizer, talking to a fighter, manager or promoter about Nevada's boxing contract laws. While the Attorney General's office is prohibited by state law from advising anyone other than state officers and agencies, Senior Deputy Kizer and I always took the time to explain where the individuals could locate Nevada and/or federal law on the subject.² Additionally, whenever it was feasible, Senior Deputy Kizer and I also explained the reasoning behind many of the state's boxing laws. For instance, most of the financial laws surrounding boxing usually occurred for one of two reasons: (1) a need to protect the fighter's interests, or (2) a need to protect the state's interests (*e.g.* tax collection). Historically, most drafters of state boxing laws have believed that managers and promoters possess more business acumen than fighters, and therefore government intervention was necessary to level the playing field. Consequently, almost every law written regarding fighters' purses

² It bears mentioning that the Internet has greatly improved this constituent service. For example, Nevada's statutes and regulations concerning "unarmed combat" can be found on the Athletic Commission's website at <http://www.state.nv.us/b&i/ac/regs.htm>.

has been intended to ensure that the fighter gets paid what he agreed upon with the promoter *before* he stepped into the ring. The remainder of the laws regarding boxers' compensation normally seek to ensure that the fighters enter into truthful and knowing arrangements with their managers and promoters. The obvious intent behind such laws is that participants will get paid as much as possible for their services, and hopefully they will be able to hold onto some of that money after their short professional boxing careers.

Although there are many more sad stories like Joe Louis, a few positive financial stories are starting to emerge as well. For instance, Sugar Ray Leonard has become a very wealthy and sophisticated businessman. He recently became licensed as a promoter in the State of Nevada and commented during his licensing hearing that one of his objectives was to help other boxers keep some of the money they earn in their careers. That is a noble goal because there is a very small window of economic opportunity in this sport.

Most boxing fans don't realize that the great majority of professional boxers never earn more than a few hundred dollars per bout. Out of that purse, the typical fighter usually is obligated to pay 33 1/3% to his managers,³ pay another 10% to his trainers, pay an annual license fee for each state,⁴ and pay for medical tests required by each state's athletic commission.⁵ So, out of a \$1,000 purse, a fighter is generally lucky if he walks home with enough money for 2 good steaks: one for his dinner and one for

³ Nevada law prohibits a manager or managers from receiving more than 33 1/3% of a fighter's earnings. Nev. Admin. Code 467.102(6).

⁴ Nevada charges an annual fee of \$25 for a professional unarmed combatant's license. Nev. Admin. Code 467.012(5).

⁵ The Nevada Athletic Commission requires each applicant for a boxing license to have a physical examination, an ophthalmologic eye examination, and negative results on recent tests for HIV and hepatitis. Nev. Admin. Code 467.027. Additionally, the commission has authority to order any other "examination or testing" it deems necessary to protect the health and safety of the fighter, his opponent, the ring officials and the public. *Id.*

his black eye. Although the above breakdown sounds appalling when considering that the boxer just put his physical well-being on the line, it's a whole lot better than the old days when some unscrupulous promoters would come to the boxers *after* the fight and say that ticket sales hadn't gone as well as expected. The crooked promoters would then renege on any signed contracts (if there even were any), and pay the fighters less than promised. Even worse, are the stories about some fly-by-night promoters who would give checks to the fighters knowing that there were insufficient funds to pay all of the bills for the event. Thus, whoever got to the bank first on Monday morning would get paid, the others would not.

Thanks to strong regulation by good athletic commissions, most promoters are now required to post bonds before holding an event. However, those bonds are generally intended to protect the ticket-buying public from a promoter who might abscond with the ticket money or fail to put on a show. In order to protect the fighters from crooked promoters, some states are beginning to require promoters, especially the newer promoters, to put enough money up front before an event to insure that all the fighters get paid. In Nevada for instance, Executive Director Marc Ratner has made it a standard request that any new promoter's license should be conditioned that the total amount of fighters' purses must be placed in advance into the vault at the host hotel. That way, the fighters can get their checks cashed immediately after the fight.

The State of Nevada has taken many other affirmative steps to ensure that fighters actually get paid for the services they provide inside the ring. Such measures have included restricting the monetary advances promoters make to fighters. *See Nev. Admin. Code 467.127.* Historically, such advances were an easy way for under-handed promoters to financially bind a fighter for long periods of time. In

essence, the fighter was obligated to keep climbing into the ring simply to pay off prior indebtedness to the promoter. Another area where Nevada has achieved great success is permitting boxers and managers to contractually agree that any disputes will be submitted to binding arbitration. *See Nev. Admin. Code 467.102(4)*. This process has steadily become an important safeguard for boxers who believe their manager is not using his or her best efforts to secure remunerative bouts for the fighter.

Pursuant to Nevada law, when a boxer or manager requests an arbitration, the chairman of the commission must appoint a representative of the commission (traditionally one of the commissioners) to serve as arbitrator in the matter. Customarily, the assignments are dispersed on a voluntarily basis and rotate amongst all of the commissioners. This arbitration process is very significant to fighters, because they can resolve disagreements with their managers in an expeditious manner. Since most fighters' careers are relatively short, they don't have the luxury of waiting for the slow wheels of the judicial system to settle their disputes. Moreover, due to the general disparity between the business skills of managers and boxers, an unscrupulous manager could intentionally try to tie up a boxer's career by filing a civil action. Conversely, by agreeing to *binding* arbitration, both parties know that any conflicts will be resolved quickly and economically.

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Sanctioning Organizations:

Although the *Muhammad Ali Boxing Reform Act* placed some requirements on sanctioning organizations, it is still difficult to determine how many of these groups actually provide anything useful for the sport. One of the reasons why Nevada is recognized as the "Boxing Capitol of the World," is

because of the number of *championship fights* held in the state each year. During 2000 alone, Nevada hosted 26 world championship fights and 28 continental championships. For each one of those championships, a sanctioning organization made money from Nevada licensees (usually the boxer, but sometimes the promoter). Many of the championship fight cards attracted thousands of fans in person, and hundreds of thousands of more fans watched the events on television; and I would venture to guess that most of those fans didn't have any real notion of what the organization behind the "belt" actually does for the sport. The more knowledgeable fans would note that the organization "ranks" the fighters in each weight class, and awards a "belt" to the champion in each category. Beyond those aspects however, even the most ardent fan probably could not describe what else these organizations do to earn 3% of the champion's purse.

Because Nevada hosts so many championship fights each year, it is very difficult for someone to sneak anything by the Nevada Athletic Commission. Simply stated, the commissioners, Executive Director Marc Ratner, and his staff have heard all of the stories before.

When it came to light last year that the International Boxing Federation (IBF) was involved in potentially corruptive practices, Nevada took swift disciplinary action against those who held privileged promoter's licenses in the state and had admitted their involvement in the matter. In summary, Nevada's Executive Director with legal assistance from the Attorney General's office, filed public disciplinary proceedings against promoters, Top Rank, Inc. and Cedric Kushner Promotions, Ltd. Discipline was warranted because the presidents of both those promotional companies acknowledged during the IBF proceedings that they had paid the president of the IBF, Robert Lee, money that was beyond the organization's standard sanctioning fees. After the disciplinary actions were filed, the

parties reached stipulated settlements in both cases. The settlements included regulatory fines of \$125,000 against Top Rank, Inc. and \$175,000 against Cedric Kushner Promotions, Ltd. Additionally, the commission placed conditions on each promoter's license regarding further dealings with sanctioning organizations.

In a related matter, admissions by Dino Duva, the former president of New Jersey Sports Promotions, dba Main Events, caused Nevada's commission to call that promoter forward into a licensing hearing to explain why it also should not be subject to monetary fines and conditions on any future licenses. The commission ultimately determined that the immediate remedial actions taken by Main Events, in conjunction with the company's extensive cooperation with the federal government's investigation, favored re-licensing of the company for the 2001 calendar year with appropriate conditions.

Due in part to the IBF criminal proceedings, and recognizing that sanctioning organizations play a significant role in boxing, the Nevada Athletic Commission decided to study the involvement that the various sanctioning organizations have in Nevada. In November 1999, the commission asked Nevada Attorney General Frankie Sue Del Papa to undertake a comprehensive look at how the sanctioning organizations are structured and how the organizations enhance or detract from the commission's goals of protecting the boxers, as well as the ticket buying and pay-per-view buying public.

The commission's *Report to the Governor on the Role of Sanctioning Organizations in Nevada's Boxing Industry* was presented to Nevada Governor Kenny C.

Guinn at the end of April 2001.⁶ The report is the most extensive review of sanctioning organizations ever conducted by Nevada. Indeed, the commission believes that the report is possibly the most comprehensive analysis of sanctioning organizations ever conducted by a regulatory body.

The bulk of the report is an effort to better understand the internal structure and workings of sanctioning organizations. To accomplish this goal, the Attorney General's office sent letters to eleven organizations that sanction boxing title bouts. Those eleven sanctioning organizations are: the International Boxing Association (IBA), the International Boxing Council (IBC), the International Boxing Federation (IBF), the International Boxing Organization (IBO), the North American Boxing Federation (NABF), the National Boxing Association (NBA), the World Boxing Association (WBA), the World Boxing Council (WBC), the World Boxing Federation (WBF), the World Boxing Organization (WBO) and the World Boxing Union (WBU).

Although varying in detail, all eleven sanctioning bodies responded to the letter. Additionally, Executive Director Marc Ratner, Senior Deputy Kizer and I met with representatives of the WBC, IBA and NABF. Those three organizations provided very detailed information about their activities, as did the WBO. Correspondence was received from two organizations, the WBU and NBA, stating that those entities do not plan to sanction any title bouts in Nevada in the near future. Consequently, those two organizations provided very little information.

Beyond the information voluntarily provided by the organizations, Nevada Attorney General Investigator Jim Freeman also compiled detailed information summarizing the sanctioning fees paid to

⁶ A copy of the commission's report can be found on the Nevada Attorney General's website at <http://ag.state.nv.us/gaming/sanctioning.pdf>.

the organizations from fighters' purses. Investigator Freeman created a chart illustrating that from 1996 to 2000, five selected organizations (IBF, WBA, WBC, WBO and USBA) sanctioned approximately 124 title bouts in Nevada, resulting in payment of approximately \$8.85 million in fees from Nevada licensees to those organizations. The Nevada Athletic Commission hopes to use the report to better understand the sanctioning organizations, and therefore to better regulate the industry.

Having gone through some of the areas that Nevada has improved upon over the past year or so, I would now like to offer a few suggestions for further improved regulation of the sport.

RECOMMENDATIONS:

Medical:

There needs to be a central repository where fighters can send their medical examinations and tests. In addition to the standard tests, it would be very helpful if all boxers had "baseline" tests conducted before they are able to receive their first professional license. Such testing could track whether a fighter's physical well-being has diminished over the course of his career; a valuable tool for knowing when a fighter should retire.

The information within the repository should be maintained as confidential. Necessary exceptions could be made for state commissions to review the information in order to determine a boxer's physical and mental fitness, and for specifically approved legal, administrative or judicial proceedings.

Such a repository would save boxers the time and money of repeating the same tests each time they apply for a different state's license. Also, the centralization of the medical information would save

state commissions enormous time currently spent tracking down the medical information from fighters.

Unified Rules:

Every boxing match in the United States should be conducted under the same rules. Currently, the Association of Boxing Commissions has established Unified Championship Rules for title bouts. The consistency of these rules helps the fighters; assists the ring officials and better informs the boxing fans.

In an effort to standardize its rules, Nevada has modified most of its rules to mirror those within the Unified Championship Rules. This is important because it's very difficult for fighters to concentrate on protecting themselves when they are trying to remember things like whether this particular state uses the "3 knockdown rule" or not. Similarly, it's quite difficult for referees to focus on the bout if they are constantly having to worry about the rules changing for different bouts. This would be the equivalent of a line judge at Wimbledon having to remember from match to match whether the lines are *in* or *out*. Finally, uniformity is also better for the live and television audiences, because it's hard to remember all the different rules the announcer goes over before each fight. For instance, some states still use the "3 knockdown rule," but the Unified Championship Rules has no such provision. That difference explains why some fight fans still automatically think that a fight is over when one boxer goes down for a third time in one round.

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Arbitrations:

As set forth above, the binding arbitration process that Nevada provides is a useful tool for expeditiously and economically resolving conflicts between boxers and managers. The availability of such alternative dispute resolution measures should be encouraged in other jurisdictions. The obvious caveat to such a proposal is that the arbitrators need to be knowledgeable about the industry and its laws. One way to achieve that objective would be to obtain a federal grant for training potential arbitrators about the process and the laws.

Sanctioning Organizations:

After reviewing all of the information compiled by the Nevada Attorney General's officer, Nevada's commission is contemplating two changes regarding how the state interacts with sanctioning organizations.

First Recommendation: While the commission does not license sanctioning bodies, the commission does have significant authority to regulate championship *bouts* held in the state. As with non-championship bouts, the commission and/or its Executive Director can refuse to allow a championship bout if it would constitute a probable mismatch.

Furthermore, the commission must approve all championship bouts. Consequently, if the commission believes that it would be detrimental to the sport of boxing and/or the State of Nevada, then it may deny such approval. In addition to a potential mismatch, grounds for such denial could include a sanctioning body requiring its champion to defend against an undeserving mandatory contender.

However, those powers are limited to the approval and regulation of actual bouts. Thus, the commission is supporting Nevada Assembly Bill No. 446 (AB446) which was introduced by Assembly Speaker Richard Perkins. If passed into law, AB446 will provide the commission with statutory authority to pass regulations concerning sanctioning organizations and broadcast television networks. In essence, the law would allow for “discretionary” registration of sanctioning bodies by the Nevada Athletic Commission. This course of action was necessary because these entities continually come into Nevada, avail themselves of the state’s well-regulated industry, then leave the jurisdiction without anyone knowing exactly what role they play in furthering the positive aspects of the sport. If a sanctioning organization or television network is directed to register with the commission, the entity will thereafter be required to submit all requested information, including how the entity receives funds from a Nevada boxing event, how the entity is structured and to what extent the entity expends the collected funds on boxing related causes. The law would also permit the commission to pass regulations explaining what remedial measures can be taken against a sanctioning organization if it fails to comply with the reporting requirements. Such measures could include barring the organization from sanctioning its championship contests in the state. If that were to occur, the bout between the 2 fighters might still be approved to take place in Nevada; however, the commission could rule that the winner of the fight not be presented with the organization’s “belt” in the ring. Furthermore, the commission could instruct that the sanctioning organization not be allowed to have any representatives (aka “supervisors”) receive “credentials” for the event. The notion of sanctioning organizations having numerous “supervisors” at fights has potential pitfalls for state commissions, not the least of which is the fact that some of the organizations sometimes forget that it is the governmental body regulating the event, not the private

organization. As a result of seeing how some organizations have tried to influence state commissions, Nevada will be considering another possible change to its regulations concerning sanctioning organizations.

Second Recommendation: Many sanctioning organizations request that a supervisor for the organization be sitting ringside to verify the compilation of the judges' scores. While it can be beneficial to have someone "double check" the math of commission personnel, too often more than one person from an organization comes over to see the round-by-round results. This may create an unacceptable situation where an informed party (with an invested interest in the outcome of a title bout) could divulge the judges' scores during the course of the bout. Such action could cause a change in the strategy of one of the fighters.

Consequently, the commission may consider a regulation requiring that only one representative from each involved organization be allowed to sit ringside and see the scores during the bout. Moreover, the name of the representative must be given to the commission at least 48 hours before the bout, and the commission may deny the request for any cause deemed reasonable. In the event of a denial, the organization must immediately submit the name of another representative. Finally, except for emergencies, the representative may not leave his or her ringside seat during the title bout, nor may he signal or otherwise inform anyone of the judges' scores prior to announcement of the winner.

Confidentiality Provision Within the Professional Boxing Safety Act:

There is a provision within the *Muhammad Ali Boxing Reform Act*, specifically 15 USC § 6307e, which provides that promoters must disclose certain information to boxing commissions.

However, there is a later provision in the act providing that if a state cannot statutorily protect the confidentiality of the documents submitted by promoters, then the promoters must submit the documents to the Association of Boxing Commissions. *See* 15 USC § 6307g(b). Although certainly well-intentioned, that particular provision has proven to be a hindrance - not a help - to Nevada (and possibly other states). Under current Nevada law, the promoters' documents are not statutorily prevented from public inspection (or from inspection by the promoter's business competitors), so Nevada presumes that its licensed promoters have been submitting the required documents to the Association of Boxing Commissions. As a result, not only is Nevada barred from receiving the documents, it also knows that the documents are housed somewhere in another jurisdiction (where they are not helping regulate Nevada's industry). As a consequence of this law, Nevada has been forced to take a backseat to a voluntary organization for the past year. As part of Nevada's AB446, the commission is attempting to rectify the matter by creating an exemption to the state's public records laws. The exemption would make confidential "Any information required to be disclosed to the commission and kept confidential pursuant to federal law." Nev. Assembly Bill 446 at §8. If passed, that revision should eliminate the problem for Nevada, but many other states will continue to experience the dilemma until the law is revised.

In conclusion, I want to once again thank you Mr. Chairman, and all the members of this Committee for allowing me to represent not only Nevada, but all states which host boxing events, and for allowing me to articulate how the states and federal government can continue to work together to protect and effectively regulate this valuable sport.

